

Remarks

Claim 1, which is the sole independent claim, has been amended to distinguish from the patent to Dick, 6,857,266 cited by the Examiner but not relied upon in the Office action and, as amended, defines over the primary references cited by the Examiner.

Considering, first, the rejections of the claims based upon the patents to Kelly and Rich, it appears that the Examiner has overlooked certain limitations in original claim 1 and retained in amended claim 1. Thus, both original claim 1 and amended claim 1 call for two floats both of which are configured to rise and fall in response to passing waves. The significance of this is that both floats are driven into motion and both floats acquire energy of motion in response to the passing surface waves. In comparison with systems wherein only one float acquires energy of motion from the passing waves, a substantially larger amount of energy is captured by the claimed two float system.

In the rejections of the claims in the Office action, the Examiner relies upon two references, namely Rich and Kelly. Neither patent, however, shows two floats both of which are movable in response to passing waves.

In Kelly, only a single float is shown in each embodiment. In Figure 1, one float 14 is shown which is movable not with respect to another float, but with respect to an anchored concrete block 11. In Figures 3 and 4, single floats 21 and A2 are shown movable with respect to

various anchored elements.

Rich does show two floats, but in each of the three figures of Rich one of the two floats shown is rigidly anchored in place. In the Summary of the Invention section of the Rich patent, reference is made to a spar buoy remaining in a substantially constant position in the water regardless of surface motion. Similarly, in the detailed description it is explained, in column 2, beginning at line 21, that a spar buoy shown in FIG. 1 is constructed such that its vertical position in the water remains substantially constant regardless of the motion of the surface. In the last paragraph of column 2, it is explained that the outer flotation device is stabilized in position by an anchoring chain. Similarly, in connection with Figure 3, it is noted that an inner flotation device remains stable independent of surface motion. Thus, while Rich does show two floats, only one of the floats is configured to rise and fall in response to the passing surface waves and Rich neither shows nor suggests the subject matter of original claim 1 or amended claim 1.

Based upon the foregoing, it is submitted that original claim 1 is/was patentable over the Rich and Kelly patents. However, claim 1 has been amended to better distinguish from the patent to Dick cited but not applied by the Examiner. The Dick patent shows in Figure 1, for example, two surface floats 3 and 4 both of which rise and fall in response to the passage of surface waves. A submerged body is attached to each of the floats for the purpose, as explained at column 4, lines 31-34 of the patent, to provide a resistance to the acceleration of the linked surface float. Why such resistance is

required is not clear to the undersigned. But what is clear is that no such submerged bodies as disclosed by Dick are used in the herein claimed devices. To distinguish from Dick, claim 1, as amended, specifies that the first float is flat and has a draft significantly less than that of the second float. Support for this claim language is in the specification in, for example, the first paragraph of the Detailed Description section of the specification.

Now, while it might be argued that the annular float 4 of Dick is flat, when the submerged body 10 dependent from the float 4 is taken into consideration, a flat configuration is not present. Also, the drafts of the two floats shown in Dick are substantially the same whereas claim 1, as amended, specifies the draft of the first float being substantially less than that of the second float. Accordingly, while Dick does show two movable floats, the float arrangements shown by Dick are so dissimilar to those shown and claimed by applicant that claim 1, as amended, is patentable over Dick. Additionally, because of the different approach taken by Dick versus those taken by Rich and Kelly, there appears to be no basis for combining the disclosures of the three patents.

Reconsideration of the application, particularly in view of the Dick patent, is respectfully requested along with allowance of the application.

Respectfully submitted



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